

(c) Violation of this provision may result in the master being liable for certain civil penalties and the vessel to arrest and forfeiture, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67316, Dec. 21, 1993, as amended by T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance filing of cargo declaration.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431), and by this section. The manifest shall be legible and complete. If it is in a foreign language, an English translation shall be furnished with the original and with any required copies. The manifest shall consist of a Vessel Entrance or Clearance Statement, Customs Form 1300, and the following documents: (1) Cargo Declaration, Customs Form 1302, (2) Ship's Stores Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I-418, to which are attached crewmember's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I-418, and (5) Passenger List, Customs and Immigration Form I-418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in items 16, 18, and/or 19 of the Vessel Entrance or Clearance Statement, as appropriate. If a vessel arrives in ballast and therefore the Cargo Declaration is omitted, the legend "No merchandise on board" shall be inserted in item 16 of the Vessel Entrance or Clearance Statement.

(b)(1) In addition to any Cargo Declaration that has been filed in advance as prescribed in paragraph (b)(2) of this section, the original and one copy of the manifest must be ready for production on demand. The master shall deliver the original and one copy of the manifest to the Customs officer who shall first demand it. If the vessel is to proceed from the port of arrival to

other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see § 4.85). The port director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the preparation of any copy which may be required in addition to the original and one copy.

(2) For any vessel subject to paragraph (a) of this section, except for any vessel exclusively carrying bulk or break bulk cargo as prescribed in paragraph (b)(4) of this section, Customs must receive from the carrier the vessel's Cargo Declaration, Customs Form 1302, or a Customs-approved electronic equivalent, 24 hours before such cargo is laden aboard the vessel at the foreign port (see § 4.30(n)(1)). Participants in the Vessel Automated Manifest System (AMS) are required to provide the vessel's cargo declaration electronically.

(3)(i) Where a non-vessel operating common carrier (NVOCC), as defined in paragraph (b)(3)(ii) of this section, delivers cargo to the vessel carrier for lading aboard the vessel at the foreign port, the NVOCC, if licensed by or registered with the Federal Maritime Commission and in possession of an International Carrier Bond containing the provisions of § 113.64 of this chapter, may electronically transmit the corresponding required cargo manifest information directly to Customs through the Vessel Automated Manifest System (AMS) that must be received 24 or more hours before the related cargo is laden aboard the vessel at the foreign port (see § 113.64(c) of this chapter); in the alternative, the NVOCC must fully disclose and present the required manifest information for the related cargo to the vessel carrier which, if automated, is required to present this information to Customs via the vessel AMS system.

(ii) A non-vessel operating common carrier (NVOCC) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. The term "non-vessel operating common carrier" does not include

freight forwarders as defined in part 112 of this chapter.

(4) Carriers of bulk cargo as specified in paragraph (b)(4)(i) of this section and carriers of break bulk cargo to the extent provided in paragraph (b)(4)(ii) of this section are exempt with respect to that cargo from the requirement set forth in paragraph (b)(2) of this section that a cargo declaration be filed with Customs 24 hours before such cargo is laden aboard the vessel at the foreign port. Any carriers of bulk or break bulk cargo that are exempted from the filing requirement of paragraph (b)(2) of this section must present their cargo declarations to Customs 24 hours prior to arrival in the U.S. if they are participants in the vessel AMS program, or upon arrival if they are non-automated carriers. These carriers must still report 24 hours in advance of loading any containerized or non-qualifying break bulk cargo they will be transporting.

(i) A carrier is exempt from the filing requirement of paragraph (b)(2) of this section with respect to the bulk cargo it is transporting. Bulk cargo is defined for purposes of this section as homogeneous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described as bulk freight. Specifically, bulk cargo is composed of either:

(A) Free flowing articles such as oil, grain, coal, ore, and the like, which can be pumped or run through a chute or handled by dumping; or

(B) Articles that require mechanical handling such as bricks, pig iron, lumber, steel beams, and the like.

(ii) A carrier of break bulk cargo may apply for an exemption from the filing requirement of paragraph (b)(2) of this section with respect to the break bulk cargo it will be transporting. For purposes of this section, break bulk cargo is cargo that is not containerized, but which is otherwise packaged or bundled.

(A) To apply for an exemption, the carrier must submit a written request for exemption to the U.S. Customs Service, National Targeting Center, 1300 Pennsylvania Ave., NW., Washington, DC 20229. Until an application for an exemption is granted, the carrier

must comply with the 24 hour advance manifest requirement set out in paragraph (b)(2) of this section. The written request for exemption must clearly set forth information such that Customs may assess whether any security concerns exist, such as: The carrier's IRS number; the source, identity and means of the packaging or bundling of the commodities being shipped; the ports of call, both foreign and domestic; the number of vessels the carrier uses to transport break bulk cargo, along with the names of these vessels and their International Maritime Organization numbers; and the list of the carrier's importers and shippers, identifying any who are members of C-TPAT (The Customs-Trade Partnership Against Terrorism).

(B) Customs will evaluate each application for an exemption on a case by case basis. If Customs, by written response, provides an exemption to a break bulk carrier, the exemption is only applicable under the circumstances clearly set forth in the application for exemption. If circumstances set forth in the approved application change, it will be necessary to submit a new application.

(C) Customs may rescind an exemption granted to a carrier at any time.

(c) No Passenger List or Crew List shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes or their connecting or tributary waters.

(d)(1) The master or owner of—

(i) A vessel documented under the laws of the United States with a registry, coastwise license, or Great Lakes license endorsement, or a vessel not so documented but intended to be employed in the foreign, coastwise, or Great Lakes trade, or

(ii) A documented vessel with a fishery license endorsement which has a permit to touch and trade (see § 4.15) or a vessel with a fishery license endorsement lacking a permit to touch and trade but intended to engage in trade—
at the port of first arrival from a foreign country shall declare on Customs Form 226 any equipment, repair parts, or materials purchased for the vessel, or any expense for repairs incurred, outside the United States, within the purview of section 466, Tariff Act of

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1930, as amended (19 U.S.C. 1466). If no equipment, repair parts, or materials have been purchased, or repairs made, a declaration to that effect shall be made on Customs Form 226.

(2) If the vessel is at least 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The port director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which comes to his attention unless the port director is satisfied that the owner of the vessel has filed an application for rebuilt determination as required by 46 CFR 67.27-3.

(3) The declaration shall be ready for production on demand for inspection and shall be presented as part of the original manifest when formal entry of the vessel is made.

(e) *Failure to provide manifest information; penalties/liquidated damages.* Any master who fails to provide manifest information as required by this section, or who presents or transmits electronically any document required by this section that is forged, altered or false, or who fails to present or transmit the information required by this section in a timely manner, may be liable for civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. In addition, if any non-vessel operating common carrier (NVOCC) as defined in paragraph (b)(3)(ii) of this section elects to transmit cargo manifest information to Customs electronically and fails to do so in the manner and in the time period required by paragraph (b)(3)(i) of this section, or electronically transmits any false, forged or altered document, paper, manifest or data to Customs, such NVOCC may be

liable for the payment of liquidated damages as provided in §113.64(c) of this chapter, in addition to any other penalties applicable under other provisions of law.

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§ 4.7a Inward manifest; information required; alternative forms.

The forms designated by § 4.7(a) as comprising the inward manifest shall be completed as follows:

(a) *Ship's Stores Declaration.* Articles to be retained aboard as sea or ship's stores shall be listed on the Ship's Stores Declaration, Customs Form 1303. Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(b) *Crew's Effects Declaration. (Customs Form 1304).* (1) The declaration number of the Crew Member's Declaration, Customs Form 5129, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None," shall be shown in item No. 7 on the Crew's Effects Declaration, Customs Form 1304 opposite the respective crewmember's name.

(2) In lieu of describing the articles on Customs Form 1304, the master may furnish a Crew List, Customs and Immigration Form I-418, endorsed as follows:

I certify that this list, with its supporting crewmembers' declarations, is a true and complete manifest of all articles on board the vessel acquired abroad by myself and the officers and crewmembers of this vessel, other than articles exclusively for use on the voyage or which have been duly cleared through Customs in the United States.

(Master.)

The Crew List on Form I-418 shall show, opposite the crewmember's name, his shipping article number and, in column 5, the declaration number. If the crewmember has nothing to declare, the word "None" shall be placed opposite his name instead of a declaration number.